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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket No. 03-380)**

In re the Application of:)	
)	
Scott A. Rosenberg et al.)	
)	
Serial No. 09/978,144)	
)	Group Art Unit: 3622
Filed: October 15, 2001)	
)	Examiner: Jeffrey D. Carlson
Confirmation No. 4095)	
)	
For: METHOD AND SYSTEM FOR)	
DYNAMIC AD PLACEMENT)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY BRIEF

A. Introduction

Appellant submits this Reply Brief in response to the Examiner's Answer mailed March, 24, 2010. In the Reply Brief, the Examiner included a "Response to Argument" addressing the substance of the Appeal Brief. This Reply Brief is submitted in response to that section of the Examiner's Answer. A Statement Identifying Related Appeal is being submitted with this Reply Brief.

B. Argument

In the Response to Argument of the Reply Brief, the Examiner stated, "Applicant argues that the combination does not lead to 'the weight rule of at least one of the ad control files comprises an equation for calculating a weight value that increases proportionately to time

passed'. [The] Examiner has addressed this language [of independent claims 1 and 38] in the rejection above. Further, the assignment of the advertising metadata's constant can be taken to be an equation where $TSL_WEIGHT = c2 = [\text{some value}]$. This is used for calculating a weight value that increases with time where the increase in time is reflected at least in the time since last seen which is taken to increase over time when that ad has not been shown." See, Response to Argument, page 9, first paragraph.

Appellant's specification provides an example weight rule that comprises an equation for calculating a weight value that increases proportionately to time passed, namely, " $\text{exp_weight} = 40 + (((g_time - 968630400)/2419200)*20)$." See, specification, page 17, lines 7-13. This example equation can be used to calculate a weight value (i.e., exp_weight) that increases proportionately to time passed if $g_time \geq 968630400$. See, specification, page 16, lines 25-26.

Marsh discloses that the equation $c2 = TSL_WEIGHT$ is merely a weighting *constant*. See, Marsh, column 10, lines 33-35. Since neither side of the equation $c2 = TSL_WEIGHT$ increases proportionately to time passed, Appellant submits that the equation $c2 = TSL_WEIGHT$ does not amount to an "equation for calculating a weight value that increases proportionately to time passed," as recited in independent claims 1 and 38 and as provided for in Appellant's specification.

Furthermore, although Marsh discloses using the value $c2$ (of the equation $c2 = TSL_WEIGHT$) in the hyperplane equation $(c1*x1) + (c2*x2) + (c3*x3) + (c4*x4) = 0$, the combination of Eldering and Marsh does not disclose or suggest that an ad control file associated with an ad comprises the hyperplane equation. Rather, as far as Appellant can tell, the hyperplane equation is part of a sort routine 701 of an advertisement display scheduler 700, and

the hyperplane equation is applicable to multiple advertisements to be sorted by sort routine 701.

See, e.g., Marsh, column 10, lines 38-41, column 11, lines 29-45, and column 12, lines 7-39.

Accordingly, even if it is assumed, for the sake of argument, that the hyperplane equation amounts to an equation for calculating a weight value that increases proportionately to time passed, Appellant submits that the combination of Eldering and Marsh does not reasonably or logically lead to “wherein the weight rule of at least one of the ad control files comprises an equation for calculating a weight value that increases proportionately to time passed,” as recited in independent claims 1 and 38.

C. Conclusion

For at least these reasons and those set forth in the Appeal Brief, Appellant maintains that the pending claims patentably distinguish over the cited art, and that the Examiner has erred in rejecting the claims. Consequently, Appellant respectfully requests reversal of the rejections and allowance of the claims.

Respectfully submitted,

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Date: May 17, 2010

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